

**Notice of Allowability**

Application No.

10/731,636

Examiner

Matt Urick

Applicant(s)

TUMA ET AL.

Art Unit

2113

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/15/04.
2. ☒ The allowed claim(s) is/are 1-8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

***Reasons for Allowance***

The following is a statement of reasons for the indication of allowable subject matter:

Claim 1 contains the limitation:

a scheduler having programmed instructions operable to instance an archiver and a software backup to execute alternately,

The teaching of a scheduler having instructions to execute an archiver and a software backup is not suggested by any reference of the prior art, nor is the combination of the limitations suggested by any reference of the prior art.

A scheduler which instances an archiver and backup agent alternately enables an administrator to harness the benefits of both methods of redundancy. Archivers or software backup systems, while individually known in the art, can cause significant time constraint problems when used improperly, as explained in applicant's disclosure (§24: archives , § 30: software backup). A scheduler would enable the administrator to not only schedule both systems to operate optimally, but it would also enable the administrator to schedule the tasks to occur at times when there is less user demand. Therefore, the administrator can use both a transaction log and a software backup routine without the disadvantages that they present.

Claims 2-4 are considered allowable as being dependant on claim 1.

Claim 8 contains the limitation:

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A third set of instructions operable to repeat the first set of instructions and the second set of instructions periodically.

A scheduler which instances an archiver (first set of instructions) and backup agent (second set of instructions) alternately enables an administrator to harness the benefits of both methods of redundancy. Archivers or software backup systems, while individually known in the art, can cause significant time constraint problems when used improperly, as explained in applicant's disclosure (§24: archives , § 30: software backup). A scheduler would enable the administrator to not only schedule both systems to operate optimally, but it would also enable the administrator to schedule the tasks to occur at times when there is less user demand. Therefore, the administrator can use both a transaction log and a software backup routine without the disadvantages that they present.

Claim 5 is considered allowable under the same grounds as claims 1 and 8.

Claims 6-7 are considered allowable as being dependant on claim 5.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Urick whose telephone number is (571) 272-0805. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MTZ

*Robert M. Beausoliel*  
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